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8 Counsel for FRED HJELMESET,
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UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

In re

EVANDER FRANK KANE,

Debtor.

Case No. 21-50028 SLJ

Chapter 7

Hon. Stephen L. Johnson

**APPLICATION FOR AUTHORITY TO
EMPLOY BROKER
(Intero Real Estate Services – Los Altos)**

[No Hearing Requested]

Fred Hjelmeset, Trustee in Bankruptcy of the estate of the above-named Debtor (“Applicant” or “Trustee”), respectfully represents:

1. Applicant requires the services of a real estate broker to aid him in carrying out his duties in this case, in particular, to market and sell the real property commonly known as 2301 Richland Avenue, San Jose, California 95125 (the “Property”).

2. Applicant has contacted of Intero Real Estate Services – Los Altos (“Proposed Broker”). Proposed Broker and its agent, Andy Buchanan, have agreed to list and market the Property for sale. Applicant is informed and believes that Proposed Broker is well qualified in the business of marketing and selling real property in Santa Clara County, California. Applicant believes that it is in the best interest of the estate that he be authorized to employ Proposed Broker to list and market the Property for sale and perform necessary related services.

1 3. The Trustee will disclose to creditors and others the commission he intends to pay
2 the Proposed Broker in his notice regarding any sale or compromise related to the Property and will
3 seek an Order authorizing payment of the commission at the same time he seeks an order authorizing
4 any sale or compromise. No commission or payments will be made to the Proposed Broker without
5 a Court order.

6 4. Applicant intends to pay a brokerage commission not to exceed five percent (5%) to
7 Proposed Broker upon sale of the Property, which commission may be split between Proposed
8 Broker and another agent in accordance with local common practice. Commissions will only be paid
9 from the proceeds of the sale, pursuant to 11 U.S.C. § 328(a). *See also Circle C Corp. v. Houlihan,*
10 *Lokey, Howard & Zukin, Inc. (In re Circle K Corp.),* 279 F3d 669, 674 (9th Cir. 2001).

11 5. Alternatively, in the event that (i) the Debtor, a relative, friend or acquaintance of the
12 Debtor purchases the estate's interest in the Property, refinances the Property, enters into a
13 compromise with the Trustee for the Property, or (ii) the Debtor dismisses the case or converts the
14 case to another chapter, compensation shall be a reasonable amount as agreed to by the Trustee (and
15 subject to notice to creditors and Court approval), which could be the greater of: (a) 2.5% of the
16 gross purchase price paid by the Debtor after deducting his allowed homestead exemption, or (b)
17 \$15,000.

18 6. Except as otherwise disclosed in the Declaration of Scott Chase filed concurrently
19 herewith, Applicant believes that neither Andy Buchanan, the broker's agent, nor the Proposed
20 Broker, has any connections with the Debtor, creditors or any other party in interest or their
21 respective attorneys or accountants, and does not represent any interest adverse to the estate.
22 Applicant believes that employment of Proposed Broker will be in the best interest of the estate and
23 its creditors. Attached hereto as **Exhibit A**, is a copy of the proposed order authorizing the
24 employment of the Proposed Broker.

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1 WHEREFORE, Applicant prays that he be authorized to employ Andy Buchanan and Intero
2 Real Estate Services – Los Altos for the purposes set forth above.

3 DATED: July 17, 2021
4

5 
6 FRED HJELMESET, Trustee in Bankruptcy
7

8 DATED: July 17, 2021

RINCON LAW LLP

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10 By: /s/ Gregg S. Kleiner

11 GREGG S. KLEINER
12 Counsel for FRED HJELMESET,
13 Trustee in Bankruptcy
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7 FRED HJELMESET,
Trustee in Bankruptcy

8 UNITED STATES BANKRUPTCY COURT

9 NORTHERN DISTRICT OF CALIFORNIA

10 SAN JOSE DIVISION

11 In re	Case No. 21-50028 SLJ
12 EVANDER FRANK KANE,	Chapter 7
13 Debtor.	Hon. Stephen L. Johnson
14 ORDER AUTHORIZING EMPLOYMENT OF BROKER (Intero Real Estate Services – Los Altos)	

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16 On the Application of Fred Hjelmeset, Trustee in Bankruptcy, and it appearing that Intero
17 Real Estate Services – Los Altos is well qualified to act as broker for the Trustee, that employment
18 of a broker will be in the best interests of the estate, that said broker represents no interest adverse
19 to the estate and that notice herein is not necessary in connection with said Application,

20 IT IS HEREBY ORDERED THAT:

21 1. The Trustee be, and hereby is, authorized to employ Intero Real Estate Services –
22 Los Altos as his broker to assist in the marketing and sale of the residential real property commonly
23 known as 2301 Richland Avenue, San Jose, California 95125 (the “Property”);

24 2. At the time of the noticing of the sale of the Property obtained through the use of the
25 services of Intero Real Estate Services – Los Altos or any compromise with the Debtor, the Trustee
26 shall disclose to creditors the commission to be paid to the listing and selling agents under the terms
27 of sale. Under no circumstances shall the commission exceed five percent (5%) of the actual sales
28 price;

3. Alternatively, in the event that (i) the Debtor, a relative, friend or acquaintance of the
Debtor purchases the estate's interest in the Property, refinances the Property, enters into a
compromise with the Trustee for the Property, or (ii) the Debtor dismisses the case or converts the
case to another chapter, compensation shall be a reasonable amount as agreed to by the Trustee (and
subject to notice to creditors and Court approval), which could be the greater of: (a) 2.5% of the
gross purchase price paid by the Debtor after deducting his allowed homestead exemption, or (b)
\$15,000.

8 4. Notwithstanding anything in the listing agreement to the contrary, under no
9 circumstances shall Intero Real Estate Services – Los Altos or any of its agents represent the buyer
10 of the Property. There shall be no dual agency; and

11 5. All compensation to the broker shall be subject to notice to creditors and Bankruptcy
12 Court approval.

****END OF ORDER****

****COURT SERVICE LIST****

NO MAIL SERVICE REQUIRED

EXHIBIT A